



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2021-0785; FRL-9591-01-R1]

Air Plan Approval; New Hampshire; Env-A 800 Testing and Monitoring

Procedures, Env-A 619.03 PSD Program Requirements, and Env-A 1200 VOC

RACT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions amend Testing and Monitoring Procedures for sources of air pollution; revise New Hampshire's Prevention of Significant Deterioration (PSD) permitting program with respect to requirements for air quality modeling; fully approve certain infrastructure SIP requirements as they related to PSD permitting requirements for the 2015 Ozone and 2012 fine particle matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS); and amend Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2021-0785 at <https://www.regulations.gov>, or via email to creilson.john@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting

comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square – Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: John Creilson, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05-2), Boston, MA 02109, tel. (617) 918-1688, email creilson.john@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Table of Contents

I. Background

- a. Env-A 800 Testing and Monitoring Procedures
- b. Env-A 619.03 PSD Program Requirements
- c. Env-A 1200 VOC RACT

II. Summary and Evaluation of State Submittal

- a. Env-A 800 Testing and Monitoring Procedures
- b. Env-A 619.03 PSD Program Requirements
- c. Env-A 1200 VOC RACT

III. Proposed Action

IV. Incorporation by Reference

V. Statutory and Executive Order Reviews

I. Background

a. Env-A 800 Testing and Monitoring Procedures

On August 19, 2021, the New Hampshire Department of Environmental Services (NH DES) submitted a revision to its State Implementation Plan (SIP). The submittal consists of revisions to an existing rule, Env-A 800, Testing and Monitoring Procedures, that was previously approved into the New Hampshire SIP. A clarification letter, along with the updated rule, was subsequently submitted on December 20, 2021. The clarification letter corrected an equation in the rule and omitted Env-A 810 from the New Hampshire SIP submittal. Env-A 800 establishes testing and monitoring procedures,

calculation procedures, standards, and requirements used to determine compliance with Federal and state air pollution regulations. The State made a number of relatively minor changes to the existing rule as described within this proposed rulemaking and requested that the version submitted on August 19, 2021, and clarified on December 20, 2021, be incorporated into the New Hampshire SIP, except for 1) section 801.02(b) and (d), which are related to trading programs, and 2) section 810, Air Pollution Control Equipment Monitoring Plan; Additional Testing and Monitoring. NH DES also stated that this revision supersedes all prior approved versions.

b. Env-A 619.03 PSD Program Requirements

On September 16, 2021, NH DES submitted a revision to its SIP-approved regulation Part Env-A 619.03, the State's CAA PSD permitting program. The revision addresses conditional approvals related to the State's PSD program for purposes of the 2015 Ozone and 2012 PM_{2.5} NAAQS infrastructure SIP requirements. Specifically, EPA conditionally approved infrastructure SIP elements associated with CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(J), and 110(a)(2)(K). *See* 85 FR 67651 (October 26, 2020).

NH DES implements PSD largely through the incorporation by reference of the Federal PSD program at 40 CFR 52.21, as it existed on a specific date. The State's current SIP-approved version of the Federal PSD program references 40 CFR 52.21 as it was codified on July 1, 2016. EPA's PSD regulations at 40 CFR 51.166(l) require a state's SIP to "provide for procedures which specify that [a]ll applications of air quality modeling . . . shall be based on the applicable models, data bases, and other requirements specified in" EPA's Guideline on Air Quality Models in appendix W of 40 CFR part 51, which was most recently revised on January 17, 2017. 82 FR 5182; *see* also 82 FR 14324

(Mar. 20, 2017). CAA sections 110(a)(2)(C), (D)(i)(II), and (J) require a state to make an infrastructure SIP submission demonstrating that the air agency has a complete PSD permitting program in place satisfying current requirements. CAA section 110(a)(2)(K) requires that the SIP provide for the performance of such air quality modeling as the EPA Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which EPA has established a NAAQS.

With New Hampshire's SIP referencing an earlier version of appendix W through its incorporation by reference of 40 CFR 52.21 as codified on July 1, 2016, EPA conditionally approved New Hampshire's infrastructure SIP elements related to CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(J), and 110(a)(2)(K), as the State's PSD program was not consistent with the current Federal requirements. EPA found that outside the issue with appendix W, the State has a comprehensive PSD permitting program in place satisfying all other PSD program elements.

Prior to EPA's proposal of the conditional approvals, NH DES committed in a letter dated June 3, 2020, to submit for EPA approval revisions to Env-A 619.03 to update the reference date for 40 CFR 52.21 so as to incorporate EPA's current "Guideline on Air Quality Models" in appendix W to 40 CFR part 51. The State's September 16, 2021, SIP submittal addresses its June 3, 2020, commitment to submit necessary revisions of Env-A 619.03 to EPA for approval into the SIP.

c. Env-A 1200 VOC RACT

On July 15, 2021, the NH DES submitted a revision to its SIP, which consists of amendments to an existing rule, Env-A 1200, Volatile Organic Compounds (VOC) Reasonably Available Control Technology (RACT), that was previously approved into

the New Hampshire SIP on November 8, 2012 (77 FR 66921). Env-A 1200 establishes requirements for the implementation of reasonably available control technology on certain stationary sources located in New Hampshire that emit volatile organic compounds. The rule expired on June 1, 2019, so the NH DES has readopted the chapter with minor amendment for clarity and to align with Federal requirements.

II. Summary and Evaluation of State Submittal

a. Env-A 800 Testing and Monitoring Procedures

On August 19, 2021, the New Hampshire Department of Environmental Services (DES) submitted state regulation Env-A 800, Testing and Monitoring Procedures, to EPA and requested that the rule be submitted into the State's SIP. A clarification letter, along with the updated rule, was subsequently submitted on December 20, 2021. The State indicated that these revisions supersede all prior approved versions.

New Hampshire made the request in light of recent changes to the rule as a matter of state law. The proposed amendments are as follows:

1. Updates to the procedure for recertification of continuous emissions monitoring systems. New Hampshire DES updated Env-A 800 to clarify and correct pre-test, sampling, and report submittal procedures for conducting Relative Accuracy Test Audits (RATAs) for recertifying Continuous Emissions Monitoring (CEM) systems installed at stationary sources.

2. Updates to nitrogen oxides (NO_x) RACT testing requirements to be consistent with Federal requirements.

New Hampshire DES updated Env-A 800 to simplify testing requirements for gaseous concentration measurements for NO_x RACT-subject devices and tune-ups. For example,

one change New Hampshire made to the NO_x RACT testing requirement was to clarify that sources only needed to choose one of the referenced test methods listed for gaseous concentration measurements, rather than use multiple test methods.

3. Removal of language pertaining to time-shared CEM systems.

New Hampshire DES updated Env-A 808, Continuous Emission Monitoring, to remove a provision relating to time-shared CEM systems, as there no longer are any installed at any New Hampshire sources.

4. Modification of audit requirements to be consistent with EPA requirements.

New Hampshire DES updated Env-A 800 to modify quarterly audit requirements for continuous opacity monitors to follow 40 CFR part 60, appendix F, Procedure 3 procedures instead of 40 CFR part 60, appendix B, Performance Specification 1 requirements in order to align with changes in Federal requirements. For example, section 808.05(b) of the previously adopted rule was modified such that the quarterly audit requirements reference 40 CFR part 60, appendix F, Procedure 3, instead of 40 CFR part 60, appendix B, Performance Specification 1.

5. Change in compliance testing for NO_x and carbon monoxide (CO).

New Hampshire DES updated Env-A 802.13, Compliance Stack Testing for Emissions of Nitrogen Oxides (NO_x) or Carbon Monoxide, to require that when compliance testing is done for either NO_x or CO, that testing be done for both gases.

6. Definitions and calculations for multi-day rolling emissions averages.

New Hampshire DES updated Env-A 808.01, Definitions, to define “rolling average” as an arithmetic mean specified by an applicable emission limit. The calculations are defined in updated sections 808.01(h)(1) – (4).

7. Modification of provisions of CEM systems.

New Hampshire DES updated Env-A 800 to revise provisions relative to installation, operation, and auditing of CEM systems to cover the inclusion of future Federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements for CEM systems.

EPA has reviewed New Hampshire's August 19, 2021 submittal of revisions to Env-A 800, Testing and Monitoring Procedures, and subsequent December 20, 2021 clarification, and determined that they represent approvable revisions to the version previously approved into the New Hampshire SIP.

b. Env-A 619.03 PSD Program Requirements

EPA has reviewed the State's September 16, 2021, SIP submittal with respect to revision for Env-A 619.03. NH DES readopted with amendments Env-A 619.03 on March 16, 2021. The readoption made the state's current regulations consistent with the Federal regulations as of July 1, 2019. NH DES amended Env-A 619.03 by including a new paragraph (d), which definitively states, "For the purposes of this part, the reference to Appendix W in 40 CFR 52.21(l) shall refer to the July 1, 2019 edition."

The changes NH DES made to its regulation sufficiently address EPA's October 26, 2020, conditional approvals of the PSD- and modeling-related elements for the 2015 Ozone and 2012 PM_{2.5} NAAQS infrastructure SIP requirements. Specifically, the new paragraph (d) provides that air quality modeling procedures will be consistent with EPA's most recent revision of appendix W of 40 CFR part 51. Therefore, EPA proposes to replace the version of Env-A 619.03 currently in New Hampshire's SIP with the March 16, 2021, version and to convert the previous conditional approvals to full approvals.

c. Env-A 1200 VOC RACT

On July 15, 2021, NH DES submitted state regulation Env-A 1200, Volatile Organic Compounds (VOC) Reasonably Available Control Technology (RACT), to EPA requesting the rule be approved into the State's SIP, and that the previously approved version of the regulation be removed from the SIP. The proposed amendments are primarily as follows:

1. Clarify exemptions.

Env-A 1201.04 was revised to remove an exemption for which an owner or operator may be exempt from the chapter if they applied for a source specific RACT permit, or permit modification, by May 31, 2013. Since this date has passed, this provision is no longer applicable and was replaced with a provision of similar intent, which states that a source now subject to a source specific RACT permit, or a consent decree agreement, would be exempt from the chapter. A provision was also added that reiterates language elsewhere in the chapter that a source's emissions must be below the relevant VOC category applicability threshold to be exempt from Env-A 1200.

2. Expand Alternative Compliance Procedures.

Env-A 1205.02 was revised to also be applicable to Env-A 1214 and 1220, flat wood paneling and adhesive coating operations respectively. These source categories will be allowed to comply with their emission rates by implementing add-on controls or a "bubble," which is a process in which similar sources at a facility are collectively controlled. This form of alternative compliance must be no less stringent than the otherwise prescribed limits. This paragraph was also edited to include reference to Env-A

800, Testing and Monitoring Procedures, which are customarily necessary for evaluating compliance with this chapter.

3. Clarify that related cleaning activity emissions are generally subject to this chapter.

To be consistent with EPA Control Techniques Guidelines (CTGs) documents, source emission applicability requirements was revised to expressly include the cleaning activities associated with the relevant VOC RACT category. New Hampshire DES had, in practice, interpreted the previous Chapter as such, therefore the actual level of control is not expected to change because of this revision.

EPA has reviewed New Hampshire's July 15, 2021, submittal of revisions to Env-A 1200, Volatile Organic Compounds (VOC) Reasonably Available Control Technology (RACT) and determined that they represent approvable revisions to the version previously approved into the New Hampshire SIP. These revisions primarily clarify existing requirements and in certain circumstances in which they expand control options, are explicitly required to be no less stringent than the previous control requirements. Therefore, the revised rule is expected to achieve no fewer emission reductions than the previously approved version. Thus, revising the SIP to incorporate the revised rule will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act. See CAA section 110(l).

III. Proposed Action

EPA is proposing to approve the New Hampshire revisions to 1) Env-A 800 submitted on August 19, 2021, and clarified on December 20, 2021; 2) Env-A 619.03 submitted on September 16, 2021; and 3) Env-A 1200 submitted on August 19, 2021. Furthermore, EPA is proposing to convert its October 26, 2020, conditional approvals of

infrastructure SIP elements associated with CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(J), and 110(a)(2)(K) for the 2015 Ozone and 2012 PM_{2.5} NAAQS to a full approval. EPA's proposed action regarding infrastructure SIP requirements for the 2015 ozone and 2012 PM_{2.5} NAAQS is contained in Table 1 below.

Table 1—Proposed Action on New Hampshire's Infrastructure SIP Elements for the 2015 Ozone and 2012 PM_{2.5} NAAQS

| Element | 2015 ozone NAAQS | 2012 PM _{2.5} NAAQS |
|---|------------------|------------------------------|
| ***** | ***** | ***** |
| (C)2: PSD program for major sources and major modifications | Approve | Approve |
| ***** | ***** | ***** |
| (D)2: PSD | Approve | Approve |
| ***** | ***** | ***** |
| (J)3: PSD | Approve | Approve |
| ***** | ***** | ***** |
| (K): Air quality modeling and data | Approve | Approve |
| ***** | ***** | ***** |

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this *Federal Register* document.

IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference New Hampshire regulations Env-A 800 as adopted on April 30, 2019, with the exception of section 801.02(b) and (d) and section 810; Env-A 619.03 as adopted on March 16, 2021; and Env-A 1200 as adopted on October 17, 2019. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 18, 2022.

David Cash,

Regional Administrator,

EPA Region 1.

[FR Doc. 2022-04032 Filed: 3/2/2022 8:45 am; Publication Date: 3/3/2022]